

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dovetail Investment Group, Inc.,
Petitioner-Appellant,

v.

Johnson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-52-0066
Parcel No. 0728360001

Docket No. 09-52-0067
Parcel No. 0728356001

On March 31, 2011, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Dovetail Investment Group, Inc., (Dovetail) did not participate in the hearing. The Board of Review designated Assistant Johnson County Attorney Andrew Chappell as its legal representative and he represented it at hearing. Neither party submitted documentary evidence in addition to the certified record. No witnesses testified at hearing. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Dovetail, owner of two parcels of vacant land in Coralville, Iowa, appeals from the Johnson County Board of Review decision reassessing its property. According to the property record cards, Parcel 0728360001 is a 105,354 square-foot vacant parcel also identified as Dovetail Estates Part 7 Outlot A. Its 2008 assessed value was \$1445. The Board of Review changed the classification from residential to commercial and reassessed the parcel in 2009 to an assessed value of \$526,700 using a rate of \$5 per square foot. Parcel 0728356001 is an 85,378 square-foot parcel of vacant land also identified as Dovetail Estates Part 6 Outlot B. The property record card indicates a \$0 assessed value

in 2008. The Board of Review changed the classification from residential to commercial and valued the parcel at \$426,890 in 2009 using a rate of \$5 per square foot. The Board of Review actions on both parcels were on its own initiative.

Dovetail appealed to this Board on the grounds that the property assessment is not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code 441.37(1)(a) and that the property is assessed for more than authorized by law under section 441.37(1)(b). It claims the parcels are part of a Planned Unit Development (PUD) and there is no guarantee they will have a commercial use. It asserts there is a possibility of future use as a residential development. It seeks restoration of the 2008 classification and for each parcel to be valued at \$1000.

The day of the hearing, John Pratt of Dovetail emailed the Board Secretary indicating he had no authority to act on the appeals since ownership had changed and the parcels were bank-owned. Based on this, Dovetail provided no evidence to this Board and did not participate in the hearing. An affidavit prepared by Johnson County Assessor William Greazel reported that his staff had been under the impression the parcels were non-buildable outlots, reserved as common area open space. At that time they were classified residential and given minimal value. It was later discovered they were buildable commercial lots prompting the reclassification to commercial and the reassessment.

Accordingly, we find the preponderance of the evidence fails to support Dovetails claims of inequitable assessment or over-assessment as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available or market value "cannot be readily established in that manner," "other factors" may be considered in arriving at market value. *Heritage Cablevision v. Board of Review of City of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990); Iowa Code § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). No evidence supports a claim of inequity in the assessments.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

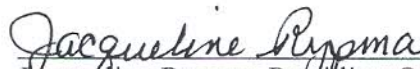
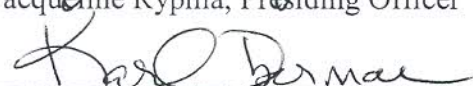
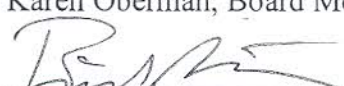
correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

The market data or comparable sales approach is to be used in determining the market value of property assessed under §441.21 unless the market value cannot be readily established in that manner. *Eagle Food*, 497 NW 2d at 863; *Heritage Cablevision*, 457 NW 2d at 597. Section 441.21 requires the sales approach be used whenever sales can readily determine market value. *Boekeloo*, 529 N.W.2d at 277. No evidence was presented to determine whether Dovetails property was over-assessed or to establish their fair market values.

Therefore, we affirm Dovetail's property assessments as determined by the Board of Review. Both parcels are classified as commercial. The Appeal Board determines the assessed value of Parcel 0728360001 is \$526,770 and the assessed value of Parcel 0728356001 is \$426,890.

IT IS THEREFORE ORDERED that the January 1, 2009, assessments as determined by the Johnson County Board of Review are affirmed.

Dated this 17 day of May, 2011.


Jacqueline Rypma, Presiding Officer

Karen Oberman, Board Member

Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-17</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
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